

In Section 9, line 4, fill the blank with, "\$10,000."

Adopted.

Senator McLeary offered the following amendment:

In Section 4, line 2, strike out the word, "either," and the words, "or said lessees, or both," and in lines 4 and 5, strike out the words, "and said lessees," and in line 4, strike out the word, "between," and insert in lieu thereof, the word, "due."

Senator McLeary moved a call of the Senate.

Call seconded.

Pending which, on motion of Senator Martin, the Senate adjourned until to-morrow morning at 9 o'clock, by the following vote:

YEAS—Senators Ball, Brady, Brown, Burton, Carroll, Crain, Martin, McLeary, McCormick, McCulloch, Piner, Ripetoe, Smith, Stephens, Terrell—15.

NAYS—Senators Blassingame, Douglass, Edwards, Francis, Guy, Henry F. M., Hobby, Ledbetter, Martin, Storey, Wortham—11.

NOT VOTING—Senators Ford, Grace, Moore, Thompson—4.

EIGHTY-SIXTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, July 28, 1876. }

Senate met pursuant to adjournment. Roll called. Quorum present. Prayer by the Chaplain.

President in the chair.

Journal of yesterday adopted.

Senator Douglass, Chairman of the Committee on Internal Improvements, submitted the following reports:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Internal Improvements have had under consideration House Bill No. 320—"An Act granting further time to the Corpus Christi, San Diego and Rio Grande Railroad Company," and instruct me to report the same back, and recommend its passage.

DOUGLASS, *Chairman.*

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Internal Improvements have had under consideration House Bill No. 421, "An Act for the relief of the Sherman, Wichita and Pan Handle Railroad Company," and instruct me to report the same back, and recommend its passage.

DOUGLASS, *Chairman.*

Senator Hobby, Chairman of Judiciary Committee No. 1, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate Bill No. 363, "An Act to attach the county of Concho to the county of Tom Green for judicial and surveying purposes," have instructed me to report it back, and recommend its passage.

HOBBY, *Chairman.*

Senate Bill No. 255, "An Act to provide for the resumption, by the State, of the possession and control of the State Penitentiary at Huntsville, and of all the property and convicts belonging thereto, and

to provide for the settlement of all matters between the lessees and the State, growing out of the termination of the lease, and resumption of the management and control of said penitentiary by the State," being the unfinished business, was taken up, pending the amendment of Senator McLeary, which was lost.

Senator Thompson offered the following amendment:

In Section 1, line 2, strike out the word, "empowered," and insert in lieu thereof the word, "required."

Adopted.

Senator Burton moved to strike out Section 8.

Lost.

Senator Terrell offered the following amendment:

In Section 6, line 7, after the word, "best," insert, "not inconsistent with laws prescribing the treatment and management of convicts."

Adopted.

The bill was ordered engrossed.

On motion of Senator Storey, the rules were suspended, and Senate Bill No. 281, "An Act to amend Section 7 of an act, entitled, 'An Act to incorporate the Austin and Pacific Short Line Railroad Company,'" was taken up.

Senator Storey offered the following amendment:

"Whereas, It is necessary to enable this company to commence work on their road, that they should have the right to dispose of the mortgage bonds immediately, therefore, an emergency exists for the immediate passage of this act; it shall therefore take effect, and be in force from and after its passage."

Adopted.

The bill then passed by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Burton, Carroll, Crain, Douglass, Edwards, Francis, Grace, Guy, Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, McCulloch, Piner, Stephens, Storey, Terrell, Thompson, Wortham—25.

NAYS—None.

NOT VOTING—Senators Ford, Moore, Smith—3.

The President, after reading its caption, signed Senate Bill No. 263, "An Act prescribing the times of holding the District Courts in the Twelfth Judicial District, and to attach certain counties named therein for judicial purposes."

On motion of Senator Ledbetter, the rules were suspended, and House Bill No. 33, "An Act to prevent the removal or sale by the lessee or renter of animals, tools or other property furnished by the landlord to the tenant, and of the crop raised on the rented premises before the landlord has been paid for such animals, tools and other property so furnished the tenant by the landlord for the rent due the landlord for such rented premises," was taken up by the following vote, and read second time:

YEAS—Senators Ball, Blassingame, Carroll, Crain, Douglass, Edwards, Ford, Grace, Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, McCulloch, Piner, Stephens, Storey, Terrell, Thompson, Wortham—21.

NAYS—Senators Brown, Burton,—2.

NOT VOTING—Senators Brady, Francis, Guy, Moore, Smith—5.

On motion of Senator McLeary, the printed bill was substituted for the original bill.

Senator Burton offered the following amendment:

Amend by striking out, "two hundred," and inserting, "one hundred," wherever it occurs in the bill.

Lost.

The bill passed to a third reading.

On motion of Senator Piner, the rules were suspended and Senate Bill No. 188½, "An Act to provide for supplying lost records in certain cases," was taken up, read second time and committee amendments adopted.

Senator Piner offered the following amendment:

"Whereas, many counties in the State have had their land records burned and no means exist to supply their loss; therefore, there exists an emergency and necessity for immediate legislation on the subject; therefore, it is enacted that this act go into effect and be in force from and after its passage."

Adopted.

Also, the following amendment to Section 1:

Between "been," and "burned," insert, "heretofore."

Adopted, and bill ordered engrossed.

On motion of Senator Piner, the rules were suspended, to place the bill on its third reading, by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Carroll, Crain, Douglass, Edwards, Francis, Grace, Guy, Henry F. M., Hobby, Ledbetter, McLeary, McCormick, McCulloch, Moore, Piner, Smith, Storey, Terrell, Wortham—23.

NAYS—None.

NOT VOTING—Senators Burton, Ford, Martin, Stephens, Thompson.

Senator Terrell moved a call of the Senate.

Call sustained.

Roll called.

ABSENT—Senators Ford, Martin.

On motion of Senator McLeary, the call was suspended.

Senator McLeary moved to fill the blank in Section 4, line 4, with, "fifty cents."

Adopted.

Bill read third time, and passed by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Burton, Carroll, Crain, Douglass, Edwards, Grace, Guy, Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCulloch, Moore, Piner, Stephens, Storey, Terrell, Thompson, Wortham—24.

NAYS—Senators Francis, McCormick—2.

NOT VOTING—Senators Ford, Smith—2.

Senator Smith called up his motion to reconsider House Bill No. 403, "An Act to provide for the election of a District Attorney in the First Judicial District of the State," and moved to lay it on the table.

Carried.

On motion of Senator Francis, Senator Motley was indefinitely excused, in consequence of sickness in his family.

On motion of Senator Ledbetter, Senator Ripetoe was granted a leave of absence for five days.

Senator Wortham, from Committee on Engrossed Bills, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Engrossed Bills have carefully examined, read and compared the following Senate bills and find them correctly engrossed:

Senate Bill No. 235—"An Act to incorporate the city of San Antonio, and grant a new charter to said city, and to repeal certain acts herein named, to incorporate said city.

Senate substitute for Senate Bills Nos. 56 and 157—"An Act to provide for the custody and maintenance of indigent lunatics."

Senate Bill No. 358—"An Act for the relief of the Aransas Road company.

WORTHAM, for Committee.

Senator Grace, Chairman of Committee on Enrolled Bills, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Enrolled Bills have carefully examined, compared and found correctly enrolled the following bill:

Senate Bill No. 263, entitled, "An Act prescribing the times of holding the terms of the District Courts in the Twelfth Judicial District, and to attach certain counties herein named for judicial purposes."

The same have been properly signed and presented to the Governor this day, at 9:30 o'clock, A. M., for his approval. GRACE, Chairman.

Senate Bill No. 377, "An Act to amend Section 27 of 'An Act authorizing the disposition and sale of the University lands, approved April 8, 1874, and to validate all sales of eighty acres to any one person,'" was taken up, read third time and passed.

On motion of Senator Douglass, the rules were suspended, and Senate Bill No. 275, "An Act to encourage the construction of railroads in the State of Texas, by donations of land," was taken up and made the special order for to-morrow, at 11 o'clock, A. M.

On motion of Senator Storey, the rules were suspended, and Senate Bill No. 262, "An Act to define the duties of County Attorneys," was taken up.

On motion of Senator McLeary, the reading of the bill was dispensed with by the following vote:

YEAS—Senators Ball, Brady, Carroll, Edwards, Francis, Ford, Grace, Guy, Hobby, Ledbetter, McLeary, McCormick, McCulloch, Moore, Smith, Stephens, Storey, Terrell, Thompson, Wortham—20.

NAYS—Senator Crain—1.

NOT VOTING—Senators Blassingame, Brown, Burton, Douglass, Henry F. M., Martin, Piner—7.

Senator Storey offered the following amendment to Section 22:

After the word, "Constitution," and before "take," insert, "therefore an emergency exists for the immediate passage of this act, it shall."

Adopted.

Senator Ball offered the following amendments:

Amend Section 19, line 14, by striking out, "ten," and inserting, "twenty."

Lost.

Add to Section 4 the following: "The County Attorneys shall have the exclusive power to approve all bail bonds."

Lost.

The bill ordered engrossed.

Senator Storey moved a further suspension of the rules to place the bill on its third reading.

Carried, by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Carroll, Douglass, Edwards, Francis, Grace, Guy, Henry F. M., Hobby, Ledbetter, Martin, McCormick, McCulloch, Piner, Stephens, Storey, Terrell, Thompson, Wortham—22.

NAYS—None.

NOT VOTING—Senators Burton, Crain, Ford, Smith—4.

Read third time and passed by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Carroll, Douglass, Edwards, Francis, Grace, Guy, Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, McCulloch, Moore, Piner, Stephens, Storey, Terrell, Thompson, Wortham—24.

NAYS—Senators Crain—1.

NOT VOTING—Senators Burton, Ford, Smith—3.

A message was received from the House, announcing that that body had concurred in Senate amendments to House Bill No. 403, "An Act to provide for the election of a District Attorney in the First Judicial District of the State of Texas."

On motion of Senator Crain, special orders were postponed, rules were suspended, and House Bill No. 320, "An Act granting further time to the Corpus Christi, San Diego and Rio Grande Narrow Gauge Railroad Company," was taken up and read second time.

On motion of Senator Smith, the special orders were postponed, rules suspended, and Senate Bill No. 124, "An Act to provide for the incorporation of Building Fund and Loan Associations," was taken up; read third time and passed.

On motion of Senator Piner, the special orders were postponed, rules suspended, and House Bill No. 421, "An Act for the relief of the Sherman, Wichita and Pan Handle Railroad Company," was taken up and read first time.

Rules suspended to place the bill on its second reading by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Carroll, Douglass, Edwards, Francis, Ford, Grace, Guy, Henry F. M., Hobby, Ledbetter, Martin, McCormick, McCulloch, Moore, Piner, Storey, Terrell, Thompson, Wortham—23.

NAYS—None.

NOT VOTING—Senators Burton, Crain, McLeary, Smith, Stephens—5.

Bill read second time, and passed to a third reading.

On motion of Senator Piner, the rules were still further suspended to place the bill on its third reading, by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Carroll, Douglass, Edwards, Francis, Ford, Grace, Guy, Henry F. M., Hobby, Ledbetter, Martin, McCormick, McCulloch, Moore, Piner, Storey, Terrell, Thompson, Wortham—23.

NAYS—None.

NOT VOTING—Senators Burton, Crain, McLeary, Smith, Stephens—5.

Bill read third time, and passed by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Carroll, Douglass, Edwards, Francis, Ford, Grace, Guy, Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, McCulloch, Moore, Piner, Storey, Terrell, Thompson, Wortham—24.

NAYS—None.

NOT VOTING—Senators Burton, Crain, Smith, Stephens—4.

Senator Wortham, from the Committee on Engrossed Bills, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Engrossed Bills have carefully read, compared and found correctly engrossed, Senate Bill No. 275, "An Act to encourage the construction of railroads in Texas by donations of lands."

WORTHAM, *for Committee.*

On motion of Senator Stephens, the rules were suspended and House Bill No. 233, "An Act prescribing the times of holding the District Courts in the Second Judicial District," was taken up and read second time.

Senator Terrell offered the following amendment:

Amend by adding to the end of Section 2 the following words:

"*Provided*, that nothing herein contained shall be so construed as to in any manner interfere with any term of the District Court in any county in said Judicial District that may be in session at the time this act goes into effect."

Adopted.

The bill passed to a third reading.

On motion of Senator Thompson, the rules were suspended, and House Bill No. 72, "An Act to amend an act entitled, 'An Act to provide for and regulate mechanics', contractors', builders', and other liens in the State of Texas,' approved November 17, 1871," was taken up and read first time.

On motion of Senator Piner, the rules were suspended, and House Bill No. 41, "An Act to amend the first section of an act to amend the first section of an act to amend the fourth section of an act entitled, 'An Act regulating attachments,' approved March 11, 1848, passed July 24, 1856, approved December 16, 1863," was taken up, read second time and passed to a third reading.

House Bill No. 290—"An Act to amend an act supplementary to 'An Act to create the county of Ellis,' approved January 28, 1850," was taken up and read second time.

Senator Guy offered the following amendment:

Amend by adding the following, to be numbered Section 2:

"That the people living along the line proposed to be established by this act, are in doubt as to which county they are residents of, said line never having been established, the same presenting difficulties in assessing and collecting taxes, etc., along said line, and the Legislature being near its adjournment, an imperative public necessity for the immediate passage of said bill, and an emergency that the same take effect immediately, both existing; that said bill do take effect and be in force from and after its passage.

Adopted.

The bill was then passed to a third reading.

On motion of Senator Guy, the rules were still further suspended, to place the bill on its third reading, by the following vote:

YEAS—Senators Blassingame, Carroll, Crain, Douglass, Edwards, Francis, Ford, Grace, Guy, Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, McCulloch, Moore, Piner, Smith, Storey, Terrell, Thompson, Wortham—23.

NAYS—None.

NOT VOTING—Senators Ball, Brady, Brown, Burton, Stephens—5.

Bill read third time, and passed by the following vote:

YEAS—Senators Ball, Blassingame, Brown, Burton, Carroll, Crain, Douglass, Edwards, Francis, Ford, Grace, Guy, Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, McCulloch, Moore, Piner, Smith, Storey, Terrell, Thompson, Wortham—26.

NAYS—None.

NOT VOTING—Senators Brady, Stephens—2.

A message was received from the House, announcing the passage by that body of the following bill:

House Bill No. 398—"An Act granting an extension of time to the Texas and Mexican Gulf Railroad."

On motion of Senator Blassingame, the special orders were postponed, the rules suspended, and House Bill No. 187, "An Act to define drunkenness in officers of the State, counties and corporations, and prescribing punishments therefor," was taken up and read second time.

On motion of Senator Terrell, the rules were suspended, special orders postponed, and Senate Bill No. 287, "An Act to incorporate the city of Austin, and to grant a new charter to said city," was taken up, read second time, and ordered engrossed.

On motion of Senator Terrell, the rules were still further suspended, to place the bill on its third reading, by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Carroll, Douglass, Edwards, Francis, Ford, Grace, Guy, Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, McCulloch, Moore, Piner, Stephens, Storey, Terrell, Thompson—24.

NAYS—None.

NOT VOTING—Senators Burton, Crain, Smith, Wortham—4.

Bill read third time, and passed by the following vote:

YEAS—Senators Ball, Blassingame, Brown, Carroll, Edwards, Francis, Ford, Grace, Guy, Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, McCulloch, Moore, Piner, Smith, Stephens, Storey, Terrell, Wortham—23.

NAYS—None.

NOT VOTING—Senators Brady, Burton, Crain, Douglass—4.

Senator Piner, for Judiciary Committees Nos. 1 and 2, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committees Nos. 1 and 2, to whom was referred accompanying Senate Bill No. 370, "An Act for the relief of the Dallas and Wichita Railroad Company," have had the same under consideration in a joint meeting of said committees, and the undersigned are instructed by a majority of said committees, to report the same back to the Senate, with the following amendments, to-wit:

Add to Section — of said bill as follows: "*And provided, further, that said company shall not be entitled to the relief sought in this act, unless they file with the Secretary of State, within ninety days from the passage of this act, a relinquishment of all over sixteen sections of land to the mile of said road,*" and as so amended, that said bill do pass.

HOBBY, *Chairman Judiciary Committee No. 1.*

PINER, *Chairman Judiciary Committee No. 2.*

On motion of Senator Guy, the rules were suspended, special orders postponed, and Senate Bill No. 370, "An Act for the relief of the Dallas and Wichita Railroad Company," was taken up, and read second time.

The amendments of the committee were adopted, and bill ordered engrossed.

Senator Guy moved a further suspension of the rules, to place the bill on its third reading.

Carried by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Burton, Carroll, Crain, Douglass, Edwards, Francis, Ford, Guy, Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCulloch, Moore, Piner, Stephens, Storey, Terrell, Thompson, Wortham—25.

NAYS—None.

NOT VOTING—Senators Grace, McCormick, Smith—3.

Bill read third time, and passed by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Burton, Carroll, Crain, Douglass, Edwards, Francis, Ford, Guy, Henry F. M., Hobby, Ledbetter, Martin, McCulloch, Piner, Stephens, Storey, Thompson, Wortham—22.

NAYS—Senator McLeary—1.

NOT VOTING—Senators Grace, McCormick, Moore, Smith, Terrell—5.

On motion of Senator Ledbetter, the rules were suspended, special orders postponed, and House Bill No. 420, "An Act to declare the time when the Sixteenth and succeeding Legislatures of the State of Texas shall assemble," was taken up, and read second time.

Senator Ledbetter moved a further suspension of the rules, to place the bill on its third reading, by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Carroll, Crain, Edwards, Francis, Ford, Guy, Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, McCulloch, Moore, Smith, Stephens, Storey, Terrell, Thompson—23.

NAYS—None.

NOT VOTING—Senators Burton, Douglass, Grace, Piner, Wortham—5.

Senator Edwards moved to strike out, in Section 1, "second Tuesday in January," and insert, "first Tuesday in February."

Lost.

Bill read third time, and passed by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Carroll, Crain, Edwards, Francis, Ford, Grace, Guy, Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, McCulloch, Moore, Piner, Smith, Storey, Terrell, Thompson, Wortham—25.

NAYS—Senator Thompson—1.

NOT VOTING—Senators Burton, Douglass—2.

Senate Bill No. 208, "An Act to amend an act to regulate proceedings in the District Courts," approved May 13, 1846, being the unfinished business, was taken up.

On motion of Senator Storey, the bill was postponed temporarily, the rules suspended, and House Bill No. 77, "An Act to define the duties, powers, rights, qualifications and liabilities of Assessors of Taxes, and to regulate their compensation," was taken up and read second time.

President in the chair.

Senator Edwards offered the following amendment:

Strike out Section 14, from line 4 to 12.

Lost.

Senator Ball offered the following amendment:

In Section 14, subdivision 31, insert, after the word, "draft," the words, "and all planted oysters or natural oyster beds."

Lost.

Senator Edwards offered the following amendments:

In Section 14, line 54, add the words, "in this State."

Lost.

Add the following to Section 27: Insert "3 per cent.," instead of "5 per cent.," and "2 per cent.," instead of "3 per cent."

Adopted by the following vote:

YEAS—Senators Blassingame, Brown, Douglass, Edwards, Francis, Grace, Henry F. M., Hobby, Martin, McCormick, McCulloch, Moore, Stephens, Wortham—14.

NAYS—Senators Ball, Brady, Carroll, Crain, Ford, Guy, Ledbetter, McLeary, Piner, Storey, Terrell—11.

NOT VOTING—Senators Burton, Smith, Thompson—3.

In Section 14, line 52, add the words, "with any corporation, firm or individual in this State."

Lost.

Senator Storey offered the following as an additional section:

"SEC. 34. There being no adequate law in force for the assessment of taxes in this State, and an imperative public necessity exists for the passage of this act, at the present session of this Legislature, it shall take effect and be in force from and after its passage."

Adopted.

Senator Edwards offered the following amendment:

In Section 14, line 56, add the words, "with any bank, corporation, firm or individual in the State."

Ruled out of order, as same amendment had been voted down before.

The President signed, after reading its caption, Senate Bill No. 355, "An Act for the relief of the Sherman, Tyler and Henderson Railroad Company."

A message was received from the House, announcing that that body had concurred in the Senate amendments to House Bill No. 285, "An Act to amend certain sections of the charter of the city of Houston."

Senator Grace, Chairman of the Committee on Enrolled Bills, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Enrolled Bills have carefully examined, compared and found correctly enrolled, Senate Bill No. 355, entitled, "An Act for the relief of the Sherman, Tyler and Henderson Railroad Company." The same has been properly signed and presented to the Governor this day, at 12 o'clock M., for his approval. GRACE, *Chairman.*

Senator Edwards, from the Committee on Engrossed Bills, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

The Engrossing Committee have examined and compared Senate Bill No. 370, "For the relief of the Dallas and Wichita Railroad Company," and find it correctly engrossed. EDWARDS, *for Committee.*

On motion of Senator Brady, the Senate adjourned until 4 o'clock this evening.

AFTERNOON SESSION.

Senate met pursuant to adjournment. Roll called. No quorum present.

Senator Crain moved that the Senate adjourn until to-morrow morning at 9 o'clock.

Lost.

A quorum appearing, Senator McLeary moved a call of the Senate.

Seconded.

Roll called.

ABSENT—Senators Brady, Brown, Carroll, Martin, McCulloch, Piner, Smith, Terrell and Thompson.

On motion of Senator Brown, Senator Carroll was excused on account of sickness.

Senator McLeary, by leave, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on State Affairs, to whom was referred House Bill No. 381, "An Act to incorporate the city of Dallas, and to grant a new charter to said city," have had the same under consideration, and instruct me to report it back with the accompanying amendments, and, as amended, to recommend that it do pass. McLEARY, *Chairman.*

Amend Chapter 5, Section 89, by striking out the word, "two," and inserting the word, "one," in line 4.

After the word, "State," in the last line of the same section add:

"Provided, that the City Council shall have the power to levy and collect an additional one per cent. on the assessed value of all taxable property, real and personal, in said city, not exempt from taxation by the Constitution and laws of the State, if a majority of those authorized to vote on the assumption of debt by Section 3, of Article 6, of the State Constitution, shall first have voted in favor of such levy, at an election duly ordered by the City Council; the whole number of votes to be determined by the number voting at such election."

Amend by adding an additional section:

"SEC. — The said city of Dallas, through the Mayor and City Council, shall have the right, power and authority to acquire, by lease for a term of years, or by actual purchase, the right and title to the iron bridge, its causeway, right of way and franchise across the Trinity River at said city; and in case of the purchase thereof, to issue the bonds of the city thereof, in such sums, payable at such times, and bearing such rate of interest, not exceeding ten per cent. per annum, as may be agreed upon by the Mayor and City Council, and the company owning said bridge. But no bonds shall be issued for said purpose

until the proposition thereof shall have been approved by a majority of those voting at an election duly ordered by the City Council, who are authorized to vote on such question, by Section 3, of Article 6, of the State Constitution; nor shall such bonds be issued until the City Council shall have passed an ordinance, providing for levying and collecting annually a sufficient tax to pay the interest thereon, and create an annual sinking fund of at least two per cent. on the whole amount of bonds to be so issued."

On motion of Senator Crain, the call of the Senate was suspended.

House Bill No. 77, "An Act to define the duties, powers, rights, and qualifications and liabilities of Assessors of Taxes, and to regulate their compensation," being the unfinished business, was taken up and its consideration resumed.

Senator Ball offered the following amendment:

Add to Section 14, the following words:

"No property situated beyond the limits of this State shall be rendered for taxation in this State."

Senator Storey moved to lay the amendment on the table.

Carried.

Senator Edwards offered the following amendment:

Amend Section 6 (printed bill), as follows:

"The owner or agent who is required under the laws of this State to render any property for taxation may render the same in the county where the same is situated, by listing the same and making oath there-to required in this act before any officer authorized to administer oaths in this State, or any officer out of this State that is authorized by law to take acknowledgments of instruments for record in this State, and forward the same to the Assessor of the county, by mail, or otherwise, and the Assessor shall enter the same on his tax rolls. If the Assessor is satisfied with the valuation as rendered in said list he will so enter the same. If he is not satisfied with the valuation he shall refer the same to the Board of Equalization of the county for their action, and shall immediately notify the person from whom he received said list that he has rendered said valuation to the Board of Equalization: *provided*, said Assessor shall not be required to notify said party unless said list is accompanied by a fee of 25 cents."

Senator Edwards moved a call of the Senate.

Call sustained.

Roll called.

ABSENT—Senators Smith, Terrell.

Pending the call, the bill went to the table.

On motion of Senator Ford, the rules were suspended, and Senate Bill No. 235, "An Act to incorporate the city of San Antonio and grant a new charter to said city, and to repeal certain acts herein named to incorporate said city," was taken up.

Senator McLeary offered the following amendment:

"SEC. 194. This act shall not have effect or become the charter of the city of San Antonio until it be ratified and accepted by a majority of the qualified voters of said city, voting at an election to be held in said city at such time, in the month of September, as the Mayor, by proclamation, shall designate. The said election shall be held in accordance with the laws governing elections, and the Mayor shall give due notice thereof. Those electors who wish this act to become the charter,

shall have written or printed on their ballots, "For the Charter;" and those electors, who wish this act not to become the charter of the said city, shall have written or printed on their ballots, "Against the Charter." The Mayor shall, within three days, by proclamation, declare the result of the election; and in the event of a majority of the legal votes cast being "For the Charter," this act shall become immediately the charter of the city of San Antonio. Should a majority of the legal votes cast be "Against the Charter," then this act shall be of no force and effect whatever."

Adopted.

On motion of Senator McLeary, the reading of the bill was dispensed with by the following vote:

YEAS—Senators Ball, Blassingame, Brown, Burton, Crain, Douglass, Edwards, Francis, Ford, Grace, Guy, Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, McCulloch, Moore, Piner, Stephens, Storey, Thompson, Wortham—24.

NAYS—None.

NOT VOTING—Senators Brady, Carroll, Smith, Terrell—4.

Bill read by caption and passed by the following vote:

YEAS—Senators Ball, Blassingame, Brown, Burton, Crain, Douglass, Edwards, Francis, Ford, Grace, Guy, Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, McCulloch, Moore, Piner, Stephens, Storey, Wortham—23.

NAYS—None.

NOT VOTING—Senators Brady, Carroll, Smith, Terrell, Thompson—5.

On motion of Senator Storey, the call was suspended, and the consideration of House Bill No. 77 was resumed.

The amendment of Senator Edwards to Section 6, was adopted by the following vote:

YEAS—Senators Brady, Brown, Burton, Crain, Douglass, Edwards, Francis, Grace, Guy, Henry F. M., Hobby, Ledbetter, McLeary, McCormick, McCulloch, Moore, Stephens, Storey, Terrell, Wortham—20.

NAYS—Senators Ball, Blassingame, Martin, Piner—4.

NOT VOTING—Senators Carroll, Ford, Smith, Thompson—4.

Senator Stephens moved to reconsider the vote adopting Senator Edward's amendment.

Senator Crain moved a call of the Senate.

Call sustained.

Roll called.

ABSENT—Senators Piner, Stephens, Brown, Smith—4.

Senator Edwards moved that the call be suspended.

Carried.

Senator Edwards moved to lay the motion of Senator Stephens, to reconsider the vote adopting his amendment, on the table.

Carried by the following vote:

YEAS—Senators Brady, Brown, Burton, Crain, Douglass, Edwards, Francis, Grace, Henry F. M., Hobby, Ledbetter, McLeary, McCormick, McCulloch, Storey, Wortham—16.

NAYS—Senators Ball, Blassingame, Ford, Guy, Martin, Moore, Stephens—7.

NOT VOTING—Senators Carroll, Piner, Smith, Terrell, Thompson—5.

Senator Stephens asked that his vote on adopting Senator Edwards'

amendment might be changed from "yea," to "nay," as he only so voted in order to move a reconsideration.

Granted, and so changed.

Senator Crain offered the following amendment:

In Section 14, line 68, after the word, "above," insert, "except State warrants."

Adopted.

Also, the following amendment:

In Section 14, line 57, insert after the word, "than," the words, "Texas and."

Senator Francis moved the previous question on the amendment and bill.

Seconded, and the main question not ordered.

On motion of Senator Edwards, the veto message of His Excellency, the Governor, was taken up, and ordered spread on the journal.

On motion of Senator Storey, the message of the Governor and accompanying bill were referred to the Committee on State Affairs.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, July 28, 1876. }

Hon. R. B. Hubbard, President of the Senate:

SIR:—I have the honor to return herewith, without my approval, Senate Bill No. 103, being, "An Act to better define the powers and duties of Sheriffs and other officers," and respectfully ask its reconsideration.

This bill confers upon Sheriffs powers more extraordinary than are believed ever to have been confided to any one officer in the history of any constitutional government. Sections 1 and 4, which authorize the Sheriff, or any one of his lawful deputies, to take the life of an accused person who fails to halt in his flight, when commanded to do so in an audible voice, is unprecedented in the annals of legislation in this country or England. These sections are grossly and palpably subversive of Sections 19 and 20 of the Bill of Rights, which guarantee that no person shall be outlawed, and that no citizen shall be deprived of life, liberty or property, privileges or immunities, except by due course of the law of the land. The principles involved in these two sections are, and have ever been, regarded as the most inestimable of the great leading and fundamental rights established in Magna Charta, the grand foundation of English and American liberty. Treasure and blood, whenever necessary to maintain them, has never been estimated or measured among English speaking people. Article 29 of that great Charter is in these words: "No free man shall be taken or imprisoned, or be disseized of his freehold, or liberties, or free customs, or be outlawed, or exiled, or any otherwise destroyed; nor we will not pass upon him nor condemn him, but by lawful judgment of his peers, or by the law of the land. We will sell to no man, we will not deny or defer to any man either justice or right."

These principles have been embalmed in the Constitutions of all the States as they have been in that of Texas, and in all of them have been excepted from the powers of government, and the rights they secure placed high above the reach of either one or all combined of its departments. The meaning of the phrase, "by due course of the law of the land," through which alone a citizen can be deprived, constitutionally,

of life, liberty, property, privileges or immunities, is well understood, and has frequently been defined by the highest courts of this country, the Supreme Court of Texas included. It is held to mean, "Law in its regular course of administration through courts of justice," or, as stated by Mr. Webster in the Dartmouth College case, in a definition generally accepted as the best ever given: "By the law of the land is most clearly intended the general law which hears before it condemns, which proceeds upon inquiry and renders judgment only after trial. The meaning is that every citizen shall hold his life, liberty, property and immunities under the protection of general rules which govern society. Every thing which may pass under the form of an enactment is not the law of the land."

Military Commissions and Courts Martial, in time of war and extreme public danger, are justified only on the ground of necessity, and even then, never fail to excite alarm and apprehension, and stormy, determined opposition among a people reared and educated under the principles of free government. These are just and humane, even merciful, in comparison with the process prescribed in this bill through which the lives of citizens may be taken in a time of profound peace. These tribunals at least *hear* before they strike. They pass judgment only after inquiry and proof. They do frequently acquit. It would, I presume, be admitted without a dissenting voice, that such tribunals can not be constitutionally erected in Texas, for the trial of citizens charged with crime. Yet this bill authorizes the Sheriff to shoot down a citizen if he does not stop and surrender when commanded to do so in an audible voice, without trial, inquiry, proof, indictment or judgment. It goes further and authorizes the Sheriff and deputies to administer oaths, thus enabling him or them to prepare in their office the charge, while placing in their hands the power to prosecute it to immediate conviction and execution.

The Sheriff is made Judge, jury and executioner. He pronounces judgment of outlawry, and executes it on the spot. It is not necessary that an indictment should have been found; a sworn statement by some person charging the offense, which may be made before the Sheriff or one of his deputies, is the only predicate required for the extremest action by the Sheriff under this bill. The English process of outlawry under the ancient common law was a regular proceeding before a court of competent jurisdiction, based upon indictment found, and the issuance of several successive *capias*, followed by judgment of outlawry in regular form. Even then, the outlaw must have been arrested and executed in the regular mode prescribed by law for the execution of criminals. It was against outlawry judicially declared in open court by formal judgment, after full and public notice and indictment found, as in ancient times was done in England, that the provision in the Constitutions of all the States, that "no person shall be outlawed," was directed. Can it be supposed that a Constitution which forbids the condemnation of a person unheard by a judicial proceeding of that character, will permit or sanction the summary butchery which would occur under this bill without notice, indictment or record, upon an *ex parte* affidavit? In Section 2 is to be found another palpable violation of the Constitution, in the authority given to the Sheriff to call any military company in the county to his assistance whenever he may deem it proper to do so in discharge of his duties. Section 7, Article 4, of the

Constitution constitutes the Governor the Commander-in-Chief of the Militia, and vests in him the power to call them forth to suppress insurrections, repel invasions, etc.

It is believed to be well settled under constitutional provisions similar to this, "that no portion of the military force of the State can be used or ordered except through the Commander-in-Chief. The discretion attempted to be given to the Sheriff in the second section of this bill is vested exclusively in the Governor by the Constitution, and cannot be taken away or conferred on another.

Apart from the question of constitutional power in the Legislature to pass such an act, the abuses to which the great powers it confers on Sheriffs would be liable; the revenges they might with impunity be used to gratify; the oppression which might, and doubtless would, result from various of the minor provisions of the bill; the consternation which could be produced in any county or community by a bad man, who might happen to be Sheriff or deputy, all stamp the measure, as a whole, and in all its details, as in an extreme degree unwise and impolitic.

The expense entailed upon the State by this bill, if it were law, would simply be enormous. It authorizes the Sheriff or any one of his, usually numerous deputies, to summon posses, hire horses, arms, etc. and, at pleasure, pursue fugitives anywhere in the limits of the State, allowing two dollars per day to each man who furnishes his horse and arms. These posses may number as high as twenty, with no limitation upon their time of service, leaving it discretionary with the Sheriffs and deputies who summon them. When it is remembered that there are about one hundred and fifty organized counties in the State, and the vast expanse of territory over which the Sheriff's posse may operate is borne in mind, some idea may be formed, not only of the great expense which would follow an honest and legitimate enforcement of the provisions of the bill, but of the frauds upon the State's Treasury, to which a wide door would be opened. Allowing that four posses, each year, would go out from each county in the State, and remain out twenty days each, the *necessary* legitimate cost to the State, for per diem of the Sheriffs and men, besides the cost of transportation of prisoners, which would be a heavy item, would be \$500,000 annually, as may be shown by arithmetical computation. This is given as an illustration; there would scarcely be an average of less than four, and might be more than double that number. The entire revenue of the State might be absorbed under this bill, and it is certain that at least from one-third to one-half of it would be. If the bill were otherwise unobjectionable, it should not become law, simply because, under the existing limitation upon the taxing power of the Legislature, the revenues of the government are insufficient for its enforcement.

I can not concur in the conclusions stated in the preamble to this bill, "that the laws in force, regulating the powers and duties of Sheriffs, in making arrests, are inefficient." In my judgment, the powers of Sheriffs, under existing laws, are ample, and need only to be exercised with diligence. The fault lies, not in the laws, but in their execution in a few localities. Nor is there as much fault in the execution of the laws as the exaggerated and sensational reports of lawlessness with which the whole country has been recently flooded, to the infinite damage of the reputation of the State and of its material interests,

which depend on the influx of capital and immigration, would seem to indicate.

Those who have read these widely circulated libels upon the people and the government of Texas, will be surprised to learn that since 1873, more persons have annually been convicted of crime in Texas, than in any other country in the world of no greater population, and that the number of persons undergoing penal servitude in Texas, is to-day greater by large odds than are to be found in a similar condition in any other State or country of the same population in the world. These facts can only be the legitimate result of a vigorous enforcement of the laws. The conditions which, notwithstanding a stringent execution of the laws, produce crime in Texas, cannot be corrected by legislation. They are the normal and inevitable attendants of a new and rapidly growing and developing country. Quoting from my annual message to the second session of the Fourteenth Legislature: "It is an historical fact that new countries in process of settlement, and until their population have time to become assimilated and homogeneous, have always been the theatres of lawlessness and crime. These characteristics have been inseparably connected with the settlement and early growth of every new State and Territory in the Union. The more rapid and luxuriant the growth and development of the country, the more marked and excessive have been these invariable accompaniments of violence and turbulence.

"The frontier and the border have always been especially subject to these inevitable disorders. They are the natural outgrowth of incipient and semi-organized society, which, under a Republican government, cannot be repressed, and which time alone, with the best efforts of the authorities, can fully correct.

"Texas has an Indian frontier and a Mexican border of not less than fifteen hundred miles, on which her people of necessity wear arms habitually for defense. Five-sixths of the population of Texas may be found in one-third of her territory. The remainder of the country is, in the common acceptation, frontier. The immense tide of immigration now and for several years past pouring into the State, with for the most part good, brings some bad people.

"Our railroad connections furnish easy access to Texas for lawless and desperate men from other States, as well as for the good citizens, and they are not slow to avail themselves of the inviting field for their operations, presented by the peculiar surroundings of society and the country. When to these considerations we add the demoralizing result of the late civil war, it becomes a matter of wonder, not that so much, but that no more of crime and disorder prevails in Texas. With such conditions surrounding her, the difficulty of maintaining peace and good order in Texas will readily be perceived by all; while the official reports before referred to must convince the most skeptical that the government and the people are addressing themselves in earnest to the work of executing the law and putting down crime."

All the revenues collected for the State and county governments expended on police and detective forces would not prevent the commission of crime in Texas. Our laws are stringent, and, although their execution is defective in some localities, as a general rule are as well executed as they can be under our present judicial system. While the conditions naturally productive of crime, as has been shown, exist in an exaggerated

degree in Texas, it is believed that the per cent. of crime in any of the other States of the Union is very little below that in Texas; and that in some of them it is fully as large. I had the honor to submit recommendations of amendments to our penal code, and code of criminal procedure, in a few particulars, at the commencement of this session, which are here respectfully renewed. Chief among them, were the recommendations to provide an easy mode for change of venue at the instance of the State, and to make applications for continuance depend on the discretion of the Judge to whom they are addressed, thus insuring a speedy trial in a country where influences hostile to a proper administration of the laws would not defeat the ends of justice. If, in addition, a liberal appropriation be made, subject to the disposition of the Governor for enforcement of the criminal laws, I can see nothing further that can be done under the existing Constitution.

For the balance, the people, without whose active co-operation no law is worth the paper on which it is written, must rely on themselves, and see to it that their local authorities are vigilant in their discharge of duty.

The company now being organized by Captain McNelly, for service against Mexican bandits, and under the lead of civil authorities against bands of white outlaws in Western Texas, I am satisfied will give peace and a sense of security to that country, if its efforts are supplemented by the amendments suggested, which are absolutely necessary to secure fair and impartial trials and the execution of the laws upon the criminals they may arrest. Without these amendments it will be almost useless in many localities where the worst disorders prevail to make arrests, as the criminals will be immediately released by the civil authorities, as were the notorious King Fisher and nine of his confederates when recently captured at Eagle Pass by Captain McNelly, and as has been repeatedly done in Mason county with criminals captured by Maj. Jones' command.

One cannot fail to recognize in the bill herewith returned, an effort on the part of the Legislature to satisfy the railing clamor before referred to, and in its utter subversion of all constitutional principle, and its proposed lavish and unlimited expenditure of public money far beyond the ability of the people to bear, the unreasonable and unreasoning nature of the demand to which it is but a natural response. If such a measure could receive the sanction of the law-making department, and be placed on our statute book, constitutional guarantees, however sacred, would be utterly worthless. Very respectfully,

RICHARD COKE.

On motion of Senator Ford, the Senate adjourned till to-morrow morning at 9 o'clock.

EIGHTY-SEVENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, July 29, 1876. }

Senate met pursuant to adjournment. President in the chair. Roll called. Quorum present. Prayer by the Chaplain.

Journal of yesterday adopted.

The President, after reading their captions, signed House Bill No. 421, "An Act for the relief of the Sherman, Wichita and Pan Handle